

108TH CONGRESS
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H. R. 1954

To revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 6, 2003

Mr. SENSENBRENNER (for himself, Mr. COBLE, Mr. FLAKE, Mr. GUTIERREZ, Mr. HASTINGS of Washington, Mr. ISSA, Mr. JENKINS, Mr. JONES of North Carolina, Mr. KELLER, Mr. CONYERS, Ms. JACKSON-LEE of Texas, and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To revise the provisions of the Immigration and Nationality Act relating to naturalization through service in the Armed Forces, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Armed Forces Natu-
5 ralization Act of 2003”.

1 **SEC. 2. NATURALIZATION THROUGH SERVICE IN ARMED**
2 **FORCES.**

3 (a) REDUCTION OF PERIOD FOR REQUIRED SERV-
4 ICE.—Section 328(a) of the Immigration and Nationality
5 Act (8 U.S.C. 1439(a)) is amended by striking “three
6 years,” and inserting “one year,”.

7 (b) PROHIBITION ON IMPOSITION OF FEES RELAT-
8 ING TO NATURALIZATION.—Title III of the Immigration
9 and Nationality Act (8 U.S.C. 1401 et seq.) is amended—

10 (1) in section 328(b)—

11 (A) in paragraph (3)—

12 (i) by striking “honorable. The” and
13 inserting “honorable (the”;

14 (ii) by striking “discharge.” and in-
15 serting “discharge); and”;

16 (B) by adding at the end the following:

17 “(4) notwithstanding any other provision of
18 law, no fee shall be charged or collected from the
19 person for filing the application, or for the issuance
20 of a certificate of naturalization upon being granted
21 citizenship, and no clerk of any State court shall
22 charge or collect any fee for such services unless the
23 laws of the State require such charge to be made,
24 in which case nothing more than the portion of the
25 fee required to be paid to the State shall be charged
26 or collected.”;

1 (2) in section 329(b)—

2 (A) in paragraph (2), by striking “and” at
3 the end;

4 (B) in paragraph (3), by striking the pe-
5 riod at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(4) notwithstanding any other provision of
8 law, no fee shall be charged or collected from the
9 person for filing the application, or for the issuance
10 of a certificate of naturalization upon being granted
11 citizenship, and no clerk of any State court shall
12 charge or collect any fee for such services unless the
13 laws of the State require such charge to be made,
14 in which case nothing more than the portion of the
15 fee required to be paid to the State shall be charged
16 or collected.”.

17 (c) NATURALIZATION PROCEEDINGS OVERSEAS FOR
18 MEMBERS OF ARMED FORCES.—Notwithstanding any
19 other provision of law, the Secretary of Homeland Secu-
20 rity, the Secretary of State, and the Secretary of Defense
21 shall ensure that any applications, interviews, filings,
22 oaths, ceremonies, or other proceedings under title III of
23 the Immigration and Nationality Act (8 U.S.C. 1401 et
24 seq.) relating to naturalization of members of the Armed
25 Forces are available, to the maximum extent practicable,

1 through United States embassies, consulates, and United
 2 States military installations overseas.

3 (d) TECHNICAL AMENDMENT.—Section 328(b)(3) of
 4 the Immigration and Nationality Act (8 U.S.C.
 5 1439(b)(3)) is amended by striking “Attorney General,”
 6 and inserting “Secretary of Homeland Security,”.

7 **SEC. 3. POSTHUMOUS CITIZENSHIP THROUGH DEATH**
 8 **WHILE ON ACTIVE-DUTY SERVICE IN ARMED**
 9 **FORCES.**

10 (a) IN GENERAL.—Section 329A of the Immigration
 11 and Nationality Act (8 U.S.C. 1440–1) is amended by
 12 striking subsection (e) and inserting the following:

13 “(e) PROHIBITION ON IMPOSITION OF FEES.—Not-
 14 withstanding any other provision of law, no fee shall be
 15 charged or collected from a person for filing a request for
 16 the granting of posthumous citizenship under subsection
 17 (c), or for the issuance of a document under subsection
 18 (d).

19 “(f) BENEFITS FOR SURVIVORS.—

20 “(1) SPOUSES.—Notwithstanding the second
 21 sentence of section 201(b)(2)(A)(i), a person who is
 22 the surviving spouse of a person granted post-
 23 humous citizenship under this section, and who was
 24 living in marital union with the citizen spouse at the
 25 time of death, shall be considered, for purposes of

1 section 201(b), to remain an immediate relative after
2 the date of the citizen's death, but only until the
3 date on which the surviving spouse remarries.

4 “(2) CHILDREN.—Notwithstanding the second
5 sentence of section 201(b)(2)(A)(i), a person who is
6 the surviving child of a person granted posthumous
7 citizenship under this section, and who is an unmar-
8 ried person under 21 years of age on the date on
9 which the petition under paragraph (4) is filed, shall
10 be considered, for purposes of section 201(b), to re-
11 main an immediate relative after the date of the citi-
12 zen's death (regardless of changes in age or marital
13 status after such filing date).

14 “(3) PARENTS.—Notwithstanding the first sen-
15 tence of section 201(b)(2)(A)(i), a person who is the
16 surviving parent of a person granted posthumous
17 citizenship under this section shall be considered, for
18 purposes of section 201(b), to remain an immediate
19 relative after the date of the citizen's death, and the
20 requirement that the citizen be at least 21 years of
21 age shall not apply.

22 “(4) SELF-PETITIONS.—

23 “(A) IN GENERAL.—In the case of a sur-
24 viving spouse, child, or parent who remains an
25 immediate relative after the date of a citizen's

1 death pursuant to paragraph (1), (2), or (3),
2 any petition under section 204 otherwise re-
3 quired to be filed by the citizen to classify the
4 spouse, child, or parent under section
5 201(b)(2)(A)(i) may be filed instead by the
6 spouse, child, or parent.

7 “(B) MINOR CHILDREN.—In the case of a
8 child under 18 years of age on the filing date,
9 the petition described in subparagraph (A) shall
10 be filed on behalf of the child by a parent or
11 legal guardian of the child.

12 “(5) DEADLINE.—Paragraphs (1) through (4)
13 shall apply only if the petition under paragraph (4)
14 is filed not later than 2 years after the date on
15 which the request under subsection (c) is granted.

16 “(6) CONVERSION OF PETITIONS.—In the case
17 of a petition under section 204 initially filed for an
18 alien’s classification as a family-sponsored immi-
19 grant under section 203(a)(2)(A), based on the
20 alien’s spouse or parent being lawfully admitted for
21 permanent residence, upon the grant of posthumous
22 citizenship under this section to the petitioner, the
23 Secretary of Homeland Security—

24 “(A) shall convert such petition to a peti-
25 tion filed under paragraph (4) to classify the

1 alien as an immediate relative under subsection
2 (b)(2)(A)(i);

3 “(B) shall ensure that the priority date as-
4 signed upon receipt of the original petition is
5 maintained; and

6 “(C) otherwise shall treat the date on
7 which the request under subsection (c) is grant-
8 ed as the petition filing date for purposes of
9 this subsection.

10 “(7) WAIVER OF PUBLIC CHARGE GROUND FOR
11 INADMISSIBILITY.—In determining the admissibility
12 of any alien accorded an immigration benefit under
13 this subsection, the grounds for inadmissibility speci-
14 fied in section 212(a)(4) shall not apply.

15 “(8) NO BENEFITS FOR OTHER RELATIVES.—
16 Nothing in this section shall be construed as pro-
17 viding for any benefit under this Act for any relative
18 of a person granted posthumous citizenship under
19 this section who is not treated as a spouse, child, or
20 parent under this subsection.”.

21 (b) TECHNICAL AMENDMENTS.—Section 329A of the
22 Immigration and Nationality Act (8 U.S.C. 1440–1) is
23 amended by striking “Attorney General” each place such
24 term appears and inserting “Secretary of Homeland Secu-
25 rity”.

1 **SEC. 4. IMMIGRATION BENEFITS FOR SURVIVING ALIEN**
 2 **SPOUSES, CHILDREN, AND PARENTS OF CITI-**
 3 **ZENS WHO DIE WHILE ON ACTIVE DUTY.**

4 (a) TREATMENT AS IMMEDIATE RELATIVES.—Sec-
 5 tion 201(f) of the Immigration and Nationality Act (8
 6 U.S.C. 1151(f)) is amended by adding at the end the fol-
 7 lowing:

8 “(4) SURVIVING ALIEN SPOUSES, CHILDREN,
 9 AND PARENTS OF CITIZENS WHO DIE WHILE ON AC-
 10 TIVE-DUTY SERVICE IN ARMED FORCES.—

11 “(A) BENEFITS FOR SURVIVORS.—

12 “(i) IN GENERAL.—The benefits
 13 under this paragraph shall apply only to a
 14 surviving spouse, child, or parent of a per-
 15 son who, while a citizen of the United
 16 States—

17 “(I) served honorably in an ac-
 18 tive-duty status in the military, air, or
 19 naval forces of the United States dur-
 20 ing any period described in the first
 21 sentence of section 329(a); and

22 “(II) died as a result of injury or
 23 disease incurred in or aggravated by
 24 such service.

25 “(ii) DETERMINATIONS.—The execu-
 26 tive department under which the citizen so

1 served shall determine whether the citizen
2 satisfied the requirements of this subpara-
3 graph.

4 “(B) SPOUSES.—Notwithstanding the sec-
5 ond sentence of subsection (b)(2)(A)(i), a per-
6 son who is a surviving spouse described in sub-
7 paragraph (A), and who was living in marital
8 union with the citizen described in such sub-
9 paragraph at the time of death, shall be consid-
10 ered, for purposes of subsection (b), to remain
11 an immediate relative after the date of the citi-
12 zen’s death, but only until the date on which
13 the surviving spouse remarries. In all other re-
14 spects, the provisions of subsection (b)(2)(A)(i)
15 and section 204(a)(1)(A)(ii) shall apply to such
16 a surviving spouse.

17 “(C) CHILDREN.—Notwithstanding the
18 second sentence of subsection (b)(2)(A)(i), a
19 person who is a surviving child described in
20 subparagraph (A), and who is an unmarried
21 person under 21 years of age on the date on
22 which a petition described in subparagraph (E)
23 to classify the alien as an immediate relative is
24 filed, shall be considered, for purposes of sub-
25 section (b), to remain an immediate relative

1 after the date of the citizen's death (regardless
2 of changes in age or marital status after such
3 filing date).

4 “(D) PARENTS.—Notwithstanding the first
5 sentence of subsection (b)(2)(A)(i), a person
6 who is a surviving parent described in subpara-
7 graph (A) shall be considered, for purposes of
8 subsection (b), to remain an immediate relative
9 after the date of the citizen's death, and the re-
10 quirement that the citizen be at least 21 years
11 of age shall not apply.

12 “(E) TREATMENT OF PETITIONS WITH RE-
13 SPECT TO CHILDREN AND PARENTS.—

14 “(i) CONTINUATION OF PETITIONS.—
15 A petition properly filed on behalf of a
16 child or parent under section
17 204(a)(1)(A)(i) by a citizen described in
18 subparagraph (A) prior to the citizen's
19 death shall be valid to classify the child or
20 parent as an immediate relative pursuant
21 to this paragraph. No new petition shall be
22 required to be filed, and any priority date
23 assigned prior to the death shall be main-
24 tained.

1 “(ii) SELF-PETITIONS.—In the case of
2 a surviving child or parent who remains an
3 immediate relative after the date of a citi-
4 zen’s death pursuant to subparagraph (C)
5 or (D), any petition under section 204 oth-
6 erwise required to be filed by the citizen to
7 classify the child or parent under sub-
8 section (b)(2)(A)(i) may be filed instead by
9 the child or parent.

10 “(iii) MINOR CHILDREN.—In the case
11 of a child under 18 years of age on the fil-
12 ing date, the petition described in clause
13 (ii) shall be filed on behalf of the child by
14 a parent or legal guardian of the child.

15 “(iv) DEADLINE.—In the case of peti-
16 tion under clause (ii), subparagraphs (C)
17 and (D) shall apply only if the petition de-
18 scribed in such clause is filed not later
19 than 2 years after the date of the citizen’s
20 death.

21 “(F) WAIVER OF PUBLIC CHARGE GROUND
22 FOR INADMISSIBILITY.—In determining the ad-
23 missibility of any alien accorded an immigration
24 benefit under this paragraph, the grounds for

1 inadmissibility specified in section 212(a)(4)
2 shall not apply.”.

3 (b) TECHNICAL AMENDMENT.—Section 201(f)(1) of
4 the Immigration and Nationality Act (8 U.S.C. 201(f)(1))
5 is amended by striking “Attorney General” and inserting
6 “Secretary of Homeland Security”.

7 **SEC. 5. EFFECTIVE DATE.**

8 (a) IN GENERAL.—Except as provided in subsection
9 (b), this Act and the amendments made by this Act shall
10 take effect as if enacted on September 11, 2001.

11 (b) FEES.—The amendments made by this Act to
12 sections 328 through 329A of the Immigration and Na-
13 tionality Act (8 U.S.C. 1439–1440–1), insofar as such
14 amendments prohibit the imposition of a fee—

15 (1) shall take effect on the date of the enact-
16 ment of this Act; and

17 (2) shall not be construed to require the refund
18 or return of any fee collected before such date.

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